

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

**CAPITAL ONE BANK (USA), N.A., and  
CAPITAL ONE SERVICES, INC.,**

**Plaintiffs,**

**v.**

**Civil Action No. 2:08-0165**  
(Judge Joseph R. Goodwin)

**DARRELL V. MCGRAW, JR. in his official  
capacity as West Virginia Attorney General,**

**Defendant.**

**AFFIDAVIT OF AMY D. COOK**

**COMMONWEALTH OF VIRGINIA,**

**COUNTY OF HENRICO, to-wit:**

The undersigned, Amy D. Cook, after being duly sworn in the State and County aforesaid, does state upon her oath as follows:

1. I am over 18 years of age and am competent to testify to the matters contained herein, all of which are true and correct. I make this declaration based upon my own personal knowledge.

2. I am employed as the Senior Director, Associate General Counsel for Corporate Governance for Capital One Financial Corporation. In that role, I am familiar with the corporate structure and practices of Capital One Bank (USA), N.A. and Capital One Services, Inc., the entity that provides, among other things, services and operational support to Capital One Bank (USA), N.A., in providing its nationwide banking activities.

**FILED**

**MAR 24 2008**

TERESA L. DEPPNER, CLERK  
U.S. District Court  
Southern District of West Virginia

3. Capital One Bank (USA), N.A., is a national bank organized and existing under the National Bank Act, 12 U.S.C. §§ 21 *et seq.*, as administered by the Office of Comptroller of Currency, and is headquartered in Virginia. Capital One Bank (USA), N.A. provides traditional banking services to its customers, including receiving deposits, cashing checks, making loans, and extending credit through credit cards. Capital One Bank (USA), N.A. converted on March 1, 2008, from Capital One Bank, a Virginia state-chartered bank, to a national banking association organized under the National Bank Act. Capital One Bank's assets are now owned by Capital One Bank (USA), N.A. Capital One Bank (USA), N.A. is a wholly-owned subsidiary of Capital One Financial Corporation.

4. Capital One Services, Inc. is a Delaware corporation with its principal place of business in Virginia. It is a wholly-owned subsidiary of Capital One Financial Corporation. Capital One Services, Inc. is and always has been an affiliate of Capital One Bank (USA), N.A., formerly known as Capital One Bank.

5. Capital One Services, Inc. is a servicing entity that provides internal administrative and operational support to Capital One Bank (USA), N.A. As such, to my knowledge, Capital One Services, Inc. has never issued credit cards, made loans, accepted payments, or engaged in any banking functions, except in its capacity as a service provider to Capital One Bank (USA), N.A., formerly known as Capital One Bank. Capital One Services, Inc., provides no services to entities other than Capital One Financial Corporation and its subsidiaries.

6. Credit cards issued under the Capital One brand name are issued and owned by Capital One Bank (USA), N.A.

7. Capital One Services, Inc., provides the administrative and operational support necessary for Capital One Bank (USA), N.A., to carry out its banking activities under the National Bank Act. Among other things, Capital One Services, Inc., provides the following services on behalf and for the sole benefit of Capital One Bank (USA), N.A., with respect to the bank's nationwide credit card and other banking activities:

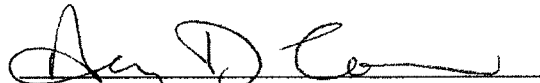
- a. Marketing, advertising and solicitation of all bank products;
- b. Bank account management, including issuance of account statements;
- c. Customer service activities and communications;
- d. Payment remittance and payment processing;
- e. Collections; and
- f. Other acts of servicing accounts and/or products issued by Capital One Bank (USA), N.A.

8. The services provided by Capital One Services, Inc., on behalf of Capital One Bank (USA), N.A., are necessary for Capital One Bank (USA), N.A., to provide banking activities permitted by the National Bank Act.

9. The only credit card and related services carried out by Capital One Services, Inc., are carried out on behalf of Capital One Bank (USA), N.A.

10. Since Capital One Services, Inc. does not issue and has never issued credit cards or any other bank product, any information and documents regarding Capital One credit card or bank practices in Capital One Services, Inc.'s possession relate exclusively to the operations of Capital One Bank (USA), N.A., and are available to Capital One Services, Inc. only in connection with the service it provides to Capital One Bank (USA), N.A., formerly Capital One Bank.

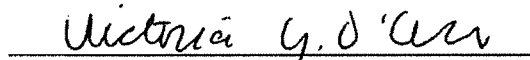
And further the Affiant says not.

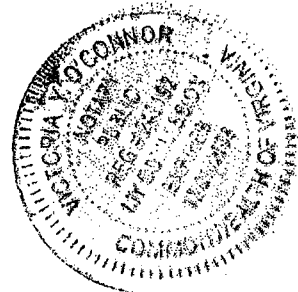
  
AMY D. COOK

Taken, subscribed and sworn to before me by Amy D. Cook this 24th day of March,  
2008.

My commission expires: 12/31/08

STATE OF VIRGINIA  
COUNTY OF FAIRFAX

  
Notary Public, Victoria G. O'Connor



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**Defendant.**

**CERTIFICATE OF SERVICE**

I, Bruce M. Jacobs, hereby certify that on March 24, 2008, service of the foregoing **Affidavit of Amy D. Cook** has been made upon the following parties by United States Mail, postage prepaid, addressed as follows:

Troy N. Giatras, Esquire  
The Giatras Law Firm PLLC  
118 Capitol Street, Suite 400  
Charleston, WV 25301

Charli Fulton, Esquire  
Consumer Protection and Antitrust Division  
812 Quarrier Street, 4<sup>th</sup> Floor  
PO Box 1789  
Charleston, WV 25326-1789



**Bruce M. Jacobs (WV State Bar # 6333)**